

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**MASSACHUSETTS LABORERS'
HEALTH AND WELFARE FUND, and
TRUSTEES OF THE MASSACHUSETTS
LABORERS' HEALTH AND WELFARE
FUND, as Fiduciaries,**

Plaintiffs,

v.

**BLUE CROSS BLUE SHIELD OF
MASSACHUSETTS,**

Defendant.

Civil Action No. 1:21-cv-10523

**DEFENDANT BLUE CROSS BLUE SHIELD OF MASSACHUSETTS, INC.'S
MOTION TO DISMISS**

Defendant Blue Cross Blue Shield of Massachusetts, Inc. ("BCBSMA") respectfully moves this Court to dismiss Plaintiffs' Complaint, under Federal Rule of Civil Procedure 12(b)(6). As set forth in detail in the attached Memorandum in Support, Plaintiffs' federal causes of action fail to state a claim. Plaintiffs, who sponsor and self-insure a multi-employer ERISA health plan, assert that BCBSMA violated "fiduciary duties" in its capacity as a third-party administrator for the plan. But the allegations in the Complaint, as well as the Administrative Services Agreement between the parties, establish that BCBSMA has no relevant fiduciary duties; Plaintiffs' federal claims should therefore be dismissed. And because only state law claims would remain, the Court should dismiss those as well, to avoid unnecessarily ruling on issues of state law. Thus, the Court should dismiss Plaintiffs' Complaint in its entirety.

REQUEST FOR ORAL ARGUMENT

Defendant Blue Cross Blue Shield of Massachusetts, Inc., requests oral argument because it is likely to help the Court in resolving this motion to dismiss.

Dated: June 7, 2021

/s/ David T. Raimer

Evan Miller
David T. Raimer
Stephen J. Petrany
JONES DAY
51 Louisiana Avenue N.W.
Washington, DC 20001
(202) 879-3939
dtraimer@jonesday.com

*Counsel for Defendant
Blue Cross Blue Shield of Massachusetts, Inc.*

RULE 7.1(A)(2) CERTIFICATION

I hereby certify that counsel have conferred and have attempted in good faith to resolve or narrow the dispute and issues between the parties.

/s/ David T. Raimer

David T. Raimer

JONES DAY

51 Louisiana Avenue N.W.

Washington, DC 20001

(202) 879-3939

dtraimer@jonesday.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Dismiss and all exhibits thereto were filed on June 7, 2021, via the Court's electronic filing system, which will deliver copies of the filings to counsel of record.

/s/ David T. Raimer

David T. Raimer

JONES DAY

51 Louisiana Avenue N.W.

Washington, DC 20001

(202) 879-3939

dtraimer@jonesday.com